(1) Own, operate, or be on board a vessel, except if that vessel is in compliance with all applicable provisions of §227.72(e);

(2) Fish for, catch, take, harvest, or possess, fish or wildlife while on board a vessel, except if that vessel is in compliance with all applicable provisions of §227.72(e);

(3) Fish for, catch, take, harvest, or possess, fish or wildlife contrary to any notice of tow-time or other restriction specified in, or issued under, §227.72(e)(3) or (6);

(4) Possess fish or wildlife taken in violation of paragraph (b) of this section;

(5) Fail to follow any of the sea turtle handling and resuscitation requirements specified in §227.72(e)(1);

(6) Possess a sea turtle in any manner contrary to the handling and resuscitation requirements of §227.72(e)(1);

(7) Fail to comply immediately, in the manner specified at 50 CFR 620.8(b)–(d), with instructions and signals specified therein issued by an authorized officer, including instructions and signals to haul back a net for inspection;

(8) Refuse to allow an authorized officer to board a vessel, or to enter an area where fish or wildlife may be found, for the purpose of conducting a boarding, search, inspection, seizure, investigation, or arrest in connection with enforcement of this section;

(9) Destroy, stave, damage, or dispose of in any manner, fish or wildlife, gear, cargo, or any other matter after a communication or signal from an authorized officer, or upon the approach of such an officer or of an enforcement vessel or aircraft, before the officer has an opportunity to inspect same, or in contravention of directions from the officer;

(10) Assault, resist, oppose, impede, intimidate, threaten, obstruct, delay, prevent, or interfere with an authorized officer in the conduct of any boarding, search, inspection, seizure, investigation, or arrest in connection with enforcement of this section;

(11) Interfere with, delay, or prevent by any means, the apprehension of another person, knowing that such person committed an act prohibited by this section;

(12) Resist a lawful arrest for an act prohibited by this section;

(13) Make a false statement, oral or written, to an authorized officer or to the agency concerning the fishing for, catching, taking, harvesting, landing, purchasing, selling, or transferring fish or wildlife, or concerning any other matter subject to investigation under this section by such officer, or required to be submitted under this part 227;

(14) Sell, barter, trade or offer to sell, barter, or trade, a TED that is not an approved TED; or

(15) Attempt to do, solicit another to do, or cause to be done, any of the foregoing.

(c) In connection with any action alleging a violation of this section, any person claiming the benefit of any exemption, exception, or permit under this subpart D has the burden of proving that the exemption, exception, or permit is applicable, was granted, and was valid and in force at the time of the alleged violation. Further, any person claiming that a modification made to a TED that is the subject of such an action complies with the requirements of §227.72(e)(4)(iii) has the burden of proving such claim.

[57 FR 57354, Dec. 4, 1992]

§227.72 Exceptions to prohibitions.

(a) *Scientific, propagation, or survival permits.* (1) The Assistant Administrator may issue permits authorizing activities which would otherwise be prohibited under §227.71 for scientific purposes or to enhance the propagation or survival of such species. Applications for these permits are subject to the provisions of part 220 of this chapter II.

(2) Ongoing scientific, propagation, or survival projects, which would otherwise be prohibited by §227.71 may continue without a permit until an application for a permit has been denied or 90 days from the effective date of the listing of the effected species, whichever comes first. If a permit has not been denied, ongoing projects may continue beyond this 90-day period provided that the individual responsible for such project(s) has applied for a permit and receives a letter from the Assistant Administrator stating that

the application is complete and sufficient for processing within the 90-day period. Projects not receiving a permit or letter indicating sufficiency by the 90th day must cease. Within 30 days of receipt of an application, the Assistant Administrator will determine the completeness and sufficiency of the application for processing. If an application is deemed complete and sufficient for processing, a permit will be issued or denied within the next 90 days beginning with the date of the letter informing the applicant that the application is sufficient. Approved projects shall continue in accordance with the conditions of the permit.

(b) *Permits for zoological exhibition or educational purposes.* The Assistant Administrator may issue permits authorizing activities which would be otherwise prohibited under §227.71 for zoological exhibition or educational purposes. Applications for these permits are subject to the provisions of part 220 of this chapter II.

(c) *Exceptions for injured, dead, or stranded specimens.* If any member of any threatened species listed in §227.4 is found injured, dead, or stranded, any agent or employee of the National Marine Fisheries Service, the Fish and Wildlife Service, the U.S. Coast Guard, or any other Federal land or water management agency, or any agent or employee of a State agency responsible for fish and wildlife who is designated by his or her agency for such purposes, may, when acting in the course of his or her official duties, take such specimens without a permit if such taking is necessary to aid a sick, injured, or stranded specimen or dispose of a dead specimen or salvage a dead specimen which may be useful for scientific study. Wherever possible, live specimens shall be returned to their aquatic environment as soon as possible. Every action shall be reported in writing to the Assistant Administrator within 30 days, and reports of further occurrence shall be made as deemed appropriate by the Assistant Administrator until the specimen is either returned to its environment or disposed of. Reports shall be mailed by registered or certified mail, return receipt requested, to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Washington, DC 20235, and shall contain the following information:

(1) Name and position of the official or employee involved;

(2) Description of the specimen(s) involved;

(3) Date and location of disposal;

(4) Circumstances requiring the action;

(5) Method of disposal;

(6) Disposition of the specimen(s), including, where the specimen(s) has been retained in captivity, a description of the place and means of confinement, and the measures taken for its maintenance and care; and

(7) Such other information as the Assistant Administrator may require.

(d) *Exception for research or conservation.* Any employee or agent of the National Marine Fisheries Service, the Fish and Wildlife Service, or a State fish and wildlife agency operating a conservation program pursuant to the terms of a Cooperative Agreement with the National Marine Fisheries Service or the Fish and Wildlife Service in accordance with section 6(c) of the Act, designated by his or her agency for such purposes, may, when acting in the course of his or her official duties, take any threatened species to carry out scientific research or conservation programs. All such takings shall be reported within 30 days of the taking to the Assistant Administrator who may request additional reports of the taking and research at his discretion.

(e) *Exception for incidental taking*—(1) *General.* The prohibitions against taking in §227.71(a) do not apply to the incidental take of any member of any species of sea turtle listed in §227.4 (i.e., a take not directed toward such member) during fishing or scientific research activities, to the extent that those involved are in compliance with the requirements of paragraphs (e)(1), (2), (3), and (6) of this section, or in compliance with the terms and conditions of an incidental take permit issued pursuant to paragraph (e)(7) of this section.

(i) Any specimen so taken must be handled with due care to prevent injury to live specimens, observed for activity, and returned to the water according to the following procedures:

(A) Sea turtles that are dead or actively moving must be released over the stern of the boat. In addition, they must be released only when trawls are not in use, when the engine gears are in neutral position, and in areas where they are unlikely to be recaptured or injured by vessels.

(B) Resuscitation must be attempted on sea turtles that are comatose or inactive but not dead by:

(*1*) Placing the turtle on its back (carapace) and pumping its breastplate (plastron) with hand or foot; or

(*2*) Placing the turtle on its breastplate (plastron) and elevating its hindquarter several inches for a period of 1 up to 24 hours. The amount of the elevation depends on the size of the turtle; greater elevations are needed for larger turtles. Sea turtles being resuscitated must be shaded and kept wet or moist. Those that revive and become active must be released over the stern of the boat only when trawls are not in use, when the engine gears are in neutral position, and in areas where they are unlikely to be recaptured or injured by vessels. Similarly, sea turtles that fail to move within several hours (up to 24, if possible) must be returned to the water in the same manner.

(ii) Any specimen so taken must not be consumed, sold, landed, offloaded, transshipped, or kept below deck.

(2) *Gear requirements*—(i) *TED requirement.* Except as provided in paragraph (e)(2)(ii) of this section, any shrimp trawler that is in the Atlantic Area or Gulf Area must have an approved TED (as defined in §217.12 of this subchapter) installed in each net that is rigged for fishing. A net is rigged for fishing if it is in the water, or if it is shackled, tied, or otherwise connected to any trawl door or board, or to any tow rope, cable, pole or extension, either on board or attached in any manner to the shrimp trawler.

(ii) *Exemptions from the TED requirement.* (A) A shrimp trawler is exempt from the TED requirements of paragraph (e)(2)(i) of this section if it complies with the alternative tow-time restrictions in paragraph (e)(3)(i) of this section and if it:

(*1*) Has on board no power or mechanical-advantage trawl retrieval system (i.e., any device used to haul any part of the net aboard);

(*2*) Is a bait shrimper that retains all live shrimp on board in a container with a circulating seawater system, if it does not possess more than 32 pounds (14.5 kg) of dead shrimp on board, and if it has on board a valid original state bait-shrimp license (if in a state that requires such a license);

(*3*) Has only a pusher-head trawl, skimmer trawl, or wing net rigged for fishing;

(*4*) Is in an area during a period for which tow-time restrictions apply under paragraphs (e)(3)(ii) or (iii) of this section, if it complies with all applicable provisions imposed under those paragraphs;

(*5*) Prior to December 1, 1994, is in inshore waters, if it has no more than one net rigged for fishing (other than a test (or try) net), if that net has both a headrope length of less than 35 feet (10.7 m) and a footrope length of less than 44 feet (13.4 m).

(B) The following fishing gear or activities are exempted from the TED requirements of paragraph (e)(2)(i) of this section:

(*1*)(*i*) For any shrimp trawler fishing in the Gulf SFSTCA or the Atlantic SFSTCA, a single test net (try net) with a headrope length of 12 ft (3.6 m) or less and with a footrope length of 15 ft (4.6 m) or less, if it is either pulled immediately in front of another net or is not connected to another net in any way, if no more than one test net is used at a time, and if it is not towed as a primary net.

(*ii*) Prior to December 19, 1997, in areas other than the Gulf SFSTCA or the Atlantic SFSTCA, a single test net (try net) with a headrope length of 20 ft (6.1 m) or less, if it is either pulled immediately in front of another net or is not connected to another net in any way, if no more than one test net is used at a time, and if it is not towed as a primary net.

(*iii*) Applicable after December 19, 1997, a single test net (try net) with a headrope length of 12 ft (3.6 m) or less and with a footrope length of 15 ft (4.6 m) or less, if it is either pulled immediately in front of another net or is not connected to another net in any way, if no more than one test net is used at a

time, and if it is not towed as a primary net.

(*2*) A beam or roller trawl fished without doors, boards, or similar devices, that has a mouth formed by a rigid frame and rigid vertical bars, if none of the spaces between the bars, or between the bars and the frame, exceed 4 inches (10.2 cm); and

(*3*) A shrimp trawler fishing for, or possessing, royal red shrimp, if at least 90 percent (by weight) of all shrimp either found on board, or offloaded from that shrimp trawler, is royal red shrimp.

(iii) *Gear requirement—summer flounder trawlers*—(A) *TED requirement.* Except as provided in paragraph (e)(2)(iii)(B) of this section, any summer flounder trawler in the summer flounder fishery-sea turtle protection area must have an approved TED (as defined in §217.12 of this chapter) installed in each net that is rigged for fishing. A net is rigged for fishing if it is in the water, or if it is shackled, tied, or otherwise connected to any trawl door or board, or to any tow rope, cable, pole or extension, either on board or attached in any manner to the summer flounder trawler.

(B) *Exemptions from the TED requirement.* Any summer flounder trawler north of 35°46.1′ N. lat. (Oregon Inlet, NC) from January 15 through March 15 annually is exempt from the TED requirement of paragraph (e)(2)(iii)(A) of this section, unless the Assistant Administrator determines that TED use is necessary to protect sea turtles or ensure compliance, pursuant to the procedures of paragraph (e)(6) of this section.

(C) *Monitoring.* Summer flounder trawlers must carry onboard a NMFS-approved observer if requested upon written notification from the Director, Southeast Region, NMFS, or the Director, Northeast Region, NMFS, sent to the address specified for the vessel in either the NMFS or state fishing permit application, or to the address specified for registration or documentation purposes, or upon written notification otherwise served on the owner or operator of the vessel. Owners and operators must comply with the terms and conditions specified in such written notification. All NMFS-approved observers will report any violations of this section, or other applicable regulations and laws; such information may be used for enforcement purposes.

(D) *Additional sea turtle conservation measures.* The Assistant Administrator may impose other such restrictions upon summer flounder trawlers as he or she deems necessary or appropriate to protect sea turtles and ensure compliance, pursuant to the procedures of paragraph (e)(6) of this section. Such measures may include, but are not limited to, a requirement to use TEDs in areas other than summer flounder fishery-sea turtle protection area, a requirement to use limited tow-times, and closure of the fishery.

(iv) *Gear requirement—leatherback conservation zone*—(A) *Leatherback surveys.* From January 1 through June 30 of each year, weekly aerial surveys will be conducted (contingent upon weather conditions) by NMFS or state agents in the leatherback conservation zone (defined in §217.12 of this chapter). If sighting rates of greater than 10 leatherback turtles per 50 nautical miles (92.6 km) of trackline are observed, the aerial surveys of that area will be replicated within 24 hours, or as soon as practicable thereafter.

(B) *TED requirements and registration.* If surveys pursuant to (e)(2)(iv)(A) of this section indicate a sighting rate within the leatherback conservation zone of greater than 10 leatherback sea turtles per 50 nautical miles (92.6 km) of trackline, NMFS will close, for a 2-week period, an area of the leatherback conservation zone encompassing all, or a portion of, inshore waters and offshore waters 10 nautical miles (18.5 km) seaward of the COLREGS demarcation line, bounded by 1° lat. coinciding with the trackline, within the leatherback conservation zone. Within such closed area, fishing by any shrimp trawler required to have a NMFS-approved TED installed in each net rigged for fishing is prohibited, unless the TED installed is one described at paragraph (e)(4)(i)(G)(*2*)(*ii*) or paragraph (e)(4)(iii)(E) of this section, and the owner or operator of the shrimp trawler has notified the Director, Southeast Region, NMFS (Regional Director) of his or her intention to fish in that area, in accordance with the procedure

provided in paragraphs (e)(6)(iv) (A) through (F) of this section. If requested in writing from the Regional Director, owners and operators of shrimp trawlers in the leatherback conservation zone must carry NMFS-approved observers aboard such vessel(s). A shrimp trawler in the leatherback conservation zone must comply with the terms and conditions specified in such written request, as well as provide information on trawling hours, gear modifications, and turtle captures.

(C) *Notification.* NMFS will immediately announce specific area closures on the NOAA weather radio channel, in newspapers, and other media. Specific area closures will be effective upon filing for public inspection at the Office of the Federal Register. Owners and operators of shrimp trawl vessels in the leatherback conservation zone are responsible for monitoring the NOAA weather radio channel for closure announcements. Shrimp trawlers may also call the Southeast Regional Office at (813) 570–5312 to receive updated area closure information.

(3) *Tow-time restrictions*—(i) *Duration of tows.* If tow-time restrictions are utilized pursuant to paragraphs (e)(2)(ii), (e)(3)(ii), or (e)(3)(iii) of this section, a shrimp trawler must limit tow times to no more than 55 minutes from April 1 through October 31; and to no more than 75 minutes from November 1 through March 31. A shrimp trawler in the North Carolina restricted area must limit tow times to no more than 30 minutes from May 16 through August 15. The tow time is measured from the time that the trawl door enters the water until it is removed from the water. For a trawl that is not attached to a door, the tow time is measured from the time the codend enters the water until it is removed from the water.

(ii) *Alternative—special environmental conditions.* (A) The Assistant Administrator may allow compliance with tow-time restrictions, as an alternative to the TED requirement of paragraph (e)(2)(i) of this section, if he/she determines that the presence of algae, seaweed, debris or other special environmental conditions in a particular area makes trawling with TED-equipped nets impracticable.

(B) *North Carolina restricted area.* From June 27, 1994 through November 30, 1994, a shrimp trawler in the North Carolina restricted area, as an alternative to complying with the TED requirement of paragraph (e)(2)(i) of this section, may comply with the tow-time restrictions set forth in paragraph (e)(3)(i) of this section. The owner or operator of a shrimp trawler who wishes to operate his or her shrimp trawler in the North Carolina restricted area must register pursuant to paragraph (e)(3)(v) of this section, with registration received by the Director, Southeast Region, NMFS, at least 24 hours before the first use of such tow times. Registration may be made by telephoning (813) 893–3141 or writing to 9721 Executive Center Drive, St. Petersburg, FL 33702. The owner or operator of a shrimp trawler in the North Carolina restricted area must carry onboard a NMFS-approved observer upon written notification by the Director, Southeast Region, NMFS. Notification shall be made to the address specified for the vessel in either the NMFS or state fishing permit application, the registration or documentation papers, or otherwise served upon the owner or operator of the vessel. The owner or operator must comply with the terms and conditions specified in such written notification. All observers will report any violations of this section, or other applicable regulations and laws; such information may be used for enforcement purposes.

(iii) *Substitute—ineffectiveness of TEDs.* The Assistant Administrator may require compliance with tow-time restrictions, as a substitute for the TED requirement of paragraph (e)(2)(i) of this section, if he/she determines that TEDs are ineffective in protecting sea turtles.

(iv) *Notice; applicability; conditions.* The Assistant Administrator will publish notification concerning any tow-time restriction imposed under paragraphs (e)(3) (ii) or (iii) of this section in the FEDERAL REGISTER and will announce it in summary form on channel 16 of the marine VHF radio. A notification of tow-time restrictions will include findings in support of these restrictions as an alternative to, or as substitute for, the TED requirements of paragraph (e)(2)(i) of this section.

The notification will specify the effective dates, the geographic area where tow-time restrictions apply, and any applicable conditions or restrictions that the Assistant Administrator determines are necessary or appropriate to protect sea turtles and ensure compliance, including, but not limited to, a requirement to carry observers, or for all shrimp trawlers in the area to synchronize their tow times so that all trawl gear remains out of the water during certain times. A notification withdrawing tow-time restrictions will include findings in support of that action.

(v) *Registration.* If the Assistant Administrator imposes restrictions under paragraph (e)(3) (ii) or (iii) of this section, he/she may require the owner and operator of a shrimp trawler to register before entering an area where, and during the time when, the restrictions apply. If registration is required, the trawler's owner and operator must submit the following information to the NMFS Regional Office:

(A) The name and official number (or registration number) of the shrimp trawler;

(B) The names, mailing and street addresses, and telephone numbers of the trawler owner and operator;

(C) The permit number or other identification of relevant state or Federal fishing permit(s);

(D) Where and when the trawler intends to fish;

(E) Where and when the trawler will depart on any fishing trip, with sufficient specificity to allow for an observer to embark on the trip; and

(F) Any changes in the information submitted under paragraphs (e)(3)(v)(A) through (E) of this section. Failure to do so immediately will void the registration, which will render unlawful any subsequent entry of the shrimp trawler into the area where and during the time when the restrictions apply.

(vi) *Procedures.* The Assistant Administrator will consult with the appropriate fishery officials (state or Federal) where the affected shrimp fishery is located in issuing a notification concerning tow-time restrictions. An emergency notification can be effective for a period of up to 30 days and may be renewed for additional periods of up to 30 days each if the Assistant Administrator finds that the conditions that necessitated the imposition of tow-time restrictions continue to exist. The Assistant Administrator may invite comments on such an action, and may withdraw or modify the action by following procedures similar to those for implementation. The Assistant Administrator will implement any permanent tow-time restriction through rulemaking.

(4) *Approved TEDs.* Any netting, webbing, or mesh that may be measured to determine compliance with this paragraph (e)(4) is subject to measurement, regardless of whether it is wet or dry. Any such measurement will be of the stretched mesh size.

(i) *Hard TEDs.* Hard TEDs are TEDs with rigid deflector grids and are categorized as ''hooped hard TEDs,'' such as the NMFS and Cameron TEDs (Figures 1 & 2), or ''single-grid hard TEDs,'' such as the Matagorda and Georgia TEDs (Figures 3 & 4). Hard TEDs complying with the following generic design criteria are approved TEDs:

(A) *Construction materials.* A hard TED must be constructed of one or a combination of the following materials, with minimum dimensions as follows:

(*1*) Solid steel rod with a minimum outside diameter of ¼ inch (0.64 cm);

(*2*) Fiberglass or aluminum rod with a minimum outside diameter of ½ inch (1.27 cm); or

(*3*) Steel or aluminum tubing with a minimum outside diameter of 1/2 inch (1.27 cm) and a minimum wall thickness of 1/8 inch (0.32 cm) (also known as schedule 40 tubing).

(B) *Method of attachment.* A hard TED must be sewn into the trawl around the entire circumference of the TED with heavy twine.

(C) *Angle of deflector bars.* (*1*) Except as provided in paragraph (e)(4)(i)(C)(*2*) of this section, the angle of the deflector bars must be between 30° and 55° from the normal, horizontal flow through the interior of the trawl.

(*2*) For any shrimp trawler fishing in the Gulf SFSTCA or the Atlantic SFSTCA, a hard TED with the position of the escape opening at the bottom of the net when the net is in its deployed position, the angle of the deflector bars

from the normal, horizontal flow through the interior of the trawl, at any point, must not exceed 55°, and:

(*i*) If the deflector bars that run from top to bottom are attached to the bottom frame of the TED, the angle of the bottom-most 4 inches (10.2 cm) of each deflector bar, measured along the bars, must not exceed 45° (Figures 14a and 14b);

(*ii*) If the deflector bars that run from top to bottom are not attached to the bottom frame of the TED, the angle of the imaginary lines connecting the bottom frame of the TED to the bottom end of each deflector bar which runs from top to bottom must not exceed 45° (Figure 15).

(D) *Space between bars.* The space between deflector bars, and between the deflector bars and the frame, must not exceed 4 inches (10.2 cm).

(E) *Direction of bars.* The deflector bars must run from top to bottom of the TED, as the TED is positioned in the net, except that up to four of the bottom bars and two of the top bars, including the frame, may run from side to side of the TED.

(F) *Position of escape opening.* The entire width of the escape opening from the trawl must be centered on and immediately forward of the frame at either the top or bottom of the net when the net is in its deployed position. The escape opening must be at the top of the net when the slope of the deflector bars from forward to aft is upward, and must be at the bottom when such slope is downward. For a single-grid TED, the escape opening must be cut horizontally along the same plane as the TED, and may not be cut in a fore-and-aft direction.

(G) *Size of escape opening.* (*1*) On a hooped hard TED, the escape opening must not be smaller than 25 inches by 25 inches (63.5 cm by 63.5 cm) in the Gulf Area, or 30 inches by 30 inches (76.2 cm by 76.2 cm) in the Atlantic Area. A door frame may not be used over the escape opening; however, a webbing flap may be used as provided in paragraph (e)(4)(iv)(C) of this section.

(*2*)(*i*) On a single-grid hard TED, the cut in the trawl webbing for the escape opening cannot be narrower than the outside width of the grid minus 4 inches (10.2 cm) on both sides of the grid, when measured as a straight line width. (Figure 13 of this part illustrates the dimensions of this cut.) The resulting escape opening in the net webbing must measure at least 32 inches (81.3 cm) in horizontal taut length and, simultaneously, 10 inches (25.4 cm) in vertical taut height in the Gulf Area; or 35 inches (88.9 cm) in horizontal taut length and, simultaneously, 12 inches (30.5 cm) in vertical taut height in the Atlantic Area. The vertical measurement must be taken at the midpoint of the horizontal measurement.

(*ii*) *Escape opening for leatherback turtles.* A single-grid hard TED escape opening shall be enlarged to allow leatherback turtles to escape by cutting an exit hole in the extension forward of the TED frame 26 inches (66 cm) deep, on each side, by 83 inches (211 cm) across (Figures 12a and 12b of this part). Excess webbing is removed by cutting across ½ mesh forward of the TED frame. The exit hole cover is made by cutting a 133-inch (338-cm) by 58-inch (148 cm) piece of webbing no smaller than 1½ inch (4 cm) stretch mesh and no larger than 1⅝ inch (4.2 cm) stretch mesh. The 133-inch (338 cm) edge of the cover is attached to the forward edge of the opening (83-inch (211-cm) edge) with a sewing sequence of 3:2. The cover should overlap 5 inches (13 cm) of the exit hole on each side. The side of the cover is attached, maintaining the 5-inch (13-cm) overlap, to the side of the opening by sewing 28 inches (71 cm) of the cover to 26 inches (66 cm) of the opening forward of the TED frame and by sewing 15 inches (38 cm) of the cover to 15 inches (38 cm) of the extension behind the TED frame. The cover may extend no more than 24 inches (61 cm) behind the posterior edge of the TED frame. The circumference of the exit opening must be 142 inches (361 cm) when stretched. If an accelerator funnel is used with a single-grid hard TED, modified as above, it must also have a minimum circumference of 142 inches (361 cm).

(H) *Size of hoop or grid—(1) Hooped hard TED.* (*i*) An oval front hoop on a hard TED must have an inside horizontal measurement of at least 32 inches (81.3 cm) and an inside vertical

measurement of at least 20 inches (50.8 cm) in the Gulf Area, or an inside horizontal measurement of at least 35 inches (88.9 cm) and an inside vertical measurement of at least 30 inches (76.2 cm) in the Atlantic Area.

(*ii*) A circular front hoop on a hard TED must have an inside diameter of at least 32 inches (81.3 cm) in the Gulf Area or 35 inches (88.9 cm) in the Atlantic Area.

(*2*) *Single-grid hard TED.* A single-grid hard TED must have an inside horizontal and vertical measurement of at least 28 inches (71.1 cm) in the Gulf Area or 30 inches (76.2 cm) in the Atlantic Area. The required inside measurements must be at the mid-point of the deflector grid.

(I) *Flotation.* Floats must be attached to the top one-half of all hard TEDs with bottom escape openings. The floats may be attached either outside or inside the net, but not to a flap. Floats attached inside the net must be behind the rear surface. Floats must be attached with heavy twine or rope. Floats must be constructed of aluminum, hard plastic, expanded polyvinyl chloride, or expanded ethylene vinyl acetate unless otherwise specified. The requirements of this paragraph may be satisfied by compliance with either the dimension requirements of paragraph (e)(4)(i)(I)(*1*) of this section, or the buoyancy requirements of paragraph (e)(4)(i)(I)(*2*) of this section, or the buoyancy-dimension requirements of paragraph (e)(4)(i)(I)(*3*) of this section. If roller gear is used pursuant to paragraph (e)(4)(iv)(E), the roller gear must be included in the circumference measurement of the TED or the total weight of the TED.

(*1*) *Float dimension requirements.* (*i*) For hard TEDs with a circumference of 120 inches (304.8 cm) or more, a minimum of either one round, aluminum or hard plastic float, no smaller than 9.8 inches (25.0 cm) in diameter, or two expanded polyvinyl chloride or expanded ethylene vinyl acetate floats, each no smaller than 6.75 inches (17.2 cm) in diameter by 8.75 inches (22.2 cm) in length, must be attached.

(*ii*) For hard TEDs with a circumference of less than 120 inches (304.8 cm), a minimum of either one round, aluminum or hard plastic float, no smaller than 9.8 inches (25.0 cm) in diameter, or one expanded polyvinyl chloride or expanded ethylene vinyl acetate float, no smaller than 6.75 inches (17.2 cm) in diameter by 8.75 inches (22.2 cm) in length, must be attached.

(*2*) *Float buoyancy requirements.* Floats of any size and in any combination must be attached such that the combined buoyancy of the floats, as marked on the floats, equals or exceeds the weight of the hard TED, as marked on the TED. The buoyancy of the floats and the weight of the TED must be clearly marked on the floats and the TED as follows:

(*i*) *Float buoyancy markings.* Marking must be made in clearly legible raised or recessed lettering by the original manufacturer. The marking must identify the buoyancy of the float in water, expressed in grams or kilograms, and must include the metric unit of measure. The marking may additionally include the buoyancy in English units. The marking must identify the nominal buoyancy for the manufactured float.

(*ii*) *TED weight markings.* The marking must be made by a registered TED manufacturer and must be permanent and clearly legible and must be accompanied by the identifying symbol of the registered manufacturer. The marking must identify the in-air, dry weight of the TED, expressed in grams or kilograms, and must include the metric unit of measure. The marking may additionally include the weight in English units. The marked weight must represent the actual weight of the individual TED as manufactured. Previously manufactured TEDs may be marked upon return to a registered TED manufacturer. Where a TED is comprised of multiple detachable components, the weight of each component must be separately marked. A TED manufacturer may become registered to mark TEDs by requesting registration in writing from the NMFS Southeast Regional Director. To request registration, the manufacturer should write to the Director, Southeast Region, NMFS, 9721 Executive Center Dr. North, St. Petersburg, FL 33702, and include the manufacturer's name, address, and telephone number; the sizes, styles, and anticipated number of TEDs

to be produced annually; the method of marking; and a description of the manufacturer's distinctive, identifying symbol. Upon receipt of a complete request, the Director, Southeast Region, NMFS, will notify the manufacturer in writing of their registration.

(*3*) *Buoyancy-dimension requirements.* Floats of any size and in any combination, provided that they are marked pursuant to paragraph (e)(4)(i)(I)(*2*)(*i*) of this section, must be attached such that the combined buoyancy of the floats equals or exceeds the following values:

(*i*) For floats constructed of aluminum or hard plastic, regardless of the size of the TED grid, the combined buoyancy must equal or exceed 14 lb (6.4 kg);

(*ii*) For floats constructed of expanded polyvinyl chloride or expanded ethylene vinyl acetate, where the circumference of the TED is 120 inches (304.8 cm) or more, the combined buoyancy must equal or exceed 20 lb (9.1 kg); or

(*iii*) For floats constructed of expanded polyvinyl chloride or expanded ethylene vinyl acetate, where the circumference of the TED is less than 120 inches (304.8 cm), the combined buoyancy must equal or exceed 10 lb (4.5 kg).

(ii) *Special Hard TEDs.* Special hard TEDs are hard TEDs which do not meet all of the design and construction criteria of the generic standards. The following special hard TEDs are approved TEDs:

(A) *Flounder TED (Figure 10 of this part).* The Flounder TED must be constructed of at least 1 1/4 inch (3.2 cm) outside diameter aluminum or steel pipe with a wall thickness of at least 1/8 inch (0.3 cm). It must have a rectangular frame with outside dimensions which can be no less than 51 inches (129.5 cm) in length and 32 inches (81.3 cm) in width. It must have at least five vertical deflector bars, with bar spacings of no more than 4 inches (10.2 cm). The vertical bars must be connected to the top of the frame and to a single horizontal bar near the bottom. The horizontal bar must be connected at both ends to the sides of the frame and parallel to the bottom bar of the frame. There must be a space no larger than 10 inches (25.4 cm) between the horizontal bar and the bottom bar of the frame. An additional vertical bar runs from the middle of the bottom bar to the middle of the horizontal bar dividing the opening at the bottom into two rectangles with an opening height of no more than 10 inches (25.4 cm) and an opening width of no more than 14 1/2 inches (36.8 cm). If, because of the width of the TED, the opening width of the bottom rectangles exceeds the maximum allowed, additional vertical bars must be added. This TED must comply with paragraphs (e)(4)(i)(B), (e)(4)(i)(C), (e)(4)(i)(F), and (e)(4)(i)(G) of this section with respect to the method of attachment, the angle of the deflector bars, the position of the escape opening, and the size of the escape opening, except that the deflector bars must be positioned in the net to deflect turtles to the escape opening in the top of the trawl. This TED may not be configured with a bottom escape opening. Installation of an accelerator funnel is not permitted with this TED. Use of this TED is restricted to the Atlantic summer flounder bottom trawl fishery.

(B) *Jones TED (Figure 11 of this part).* The Jones TED must be constructed of at least 1 1/4 inch (3.2 cm) outside diameter aluminum or steel pipe, and the pipe must have a wall thickness of at least 1/8 inch (0.3 cm). It must be generally oval in shape with a flattened bottom. The deflector bars must be attached to the frame at a 45° angle from the horizontal positioning downward and each bar must be attached at only one end to the frame. The deflector bars must be attached and lie in the same plane as the frame. The space between the ends of the bottom deflector bars and the bottom frame bar must be no more than 3 inches (7.6 cm). The spacing between the bottom three deflector bars on each side must be no greater than 2 1/2 inches (6.4 cm). The spacing between all other deflector bars must not exceed 3 1/2 inches (8.9 cm) and spacing between ends of opposing deflector bars also must not exceed 3 1/2 inches (8.9 cm). This TED must comply with paragraphs (e)(4)(i)(B), (e)(4)(i)(C), (e)(4)(i)(F), (e)(4)(i)(G), (e)(4)(i)(H)(*2*), and (e)(4)(i)(I) of this section with respect to the method of attachment, the angle of the deflector

bars, the position of the escape opening, the size of the escape opening, the size of the grid, and flotation.

(iii) *Soft TEDs.* Soft TEDs are TEDs with deflector panels made from polypropylene or polyethylene netting. For any shrimp trawler fishing in the Gulf SFSTCA and the Atlantic SFSTCA, soft TEDs are not approved TEDs. Prior to December 19, 1997, in areas other than the Gulf SFSTCA and Atlantic SFSTCA, the following soft TEDs are approved TEDs:

(A) *Morrison TED (Figures 5 & 6)—(1) Description.* The Morrison TED uses synthetic mesh webbing for its deflector panel(s). The webbing must consist of number 42 (3-mm thick) or larger polypropylene or polyethylene webbing that is heat-set knotted or braided. The stretched mesh size may not exceed 8 inches (20.3 cm). The webbing may be installed either as one main excluder panel or as a main and two side (jib) excluder panels (Figure 6), so long as it forms a complete barrier to large objects inside the trawl net forward of the codend. The base (leading edge) of the excluder panel(s) must be sewn to the bottom body of the trawl net at least 16 feet 8 inches (5.1 m) forward of the point at which the codend is attached to the trawl net. The apex of the excluder panel(s) must be sewn to the center of the top body of the trawl net not more than 20 inches (50.8 cm) forward of the point at which the codend is attached to the trawl net. The meshes of the leading edge of the excluder panel shall be sewn evenly onto the bottom belly of the trawl following the same row of meshes from seam to seam, including the wings (i.e., the sides of the trawl that separate the top from the bottom). The leading edge of the panel cannot be installed on a bias. If a net extension is inserted forward of the codend, the base and apex attachments of the excluder panel(s) must be measured from the forward attachment points of such extension. The horizontal taut length of the stretched main excluder panel may not be less than 15 feet (4.6 m). Each point on the circumference of the webbing must be sewn to the trawl net. The meshes of the webbing must be under tension when the codend is pulled aft, thus forming diamond patterns pointing toward the top of the trawl net. As an escape opening, a slit at least 4 feet 8 inches (1.4 m) in taut length must be cut in a fore-and-aft direction at the top of the trawl net immediately forward of the apex of the panel webbing. The slit may not be covered or closed in any manner.

(*2*) [Reserved]

(B) *Parrish TED (Figure 7).* The Parrish TED consists of an extension and deflector panel made of synthetic mesh and a steel frame. The extension must be a piece of 1¾-inch (4.4-cm) stretched mesh, no. 15 thread, treated nylon, measuring 150 meshes by 100 meshes and installed in the trawl. When installed, the extension must be cylindrically shaped with a circumference of 150 meshes and a depth of 100 meshes. The deflector panel must slope down the inside of the extension and must be a rectangular piece of 8-inch (20.3-cm), stretched mesh, 3-mm diameter, braided polyethylene. The deflector panel must measure eight meshes across its leading and trailing edges and be 15½ meshes deep. The eight meshes at the leading edge of the deflector panel must be sewn into the small (1¾-inch) (4.4-cm) mesh of the extension three meshes down from the top edge of the extension. The eight meshes at the trailing edge must be attached to the top edge of the frame. Each side edge of the deflector panel must be attached at 5⅝-inch (14.3-cm) intervals to a ⅜-inch (1.0-cm) diameter, three-strand polydacron rope, which must be attached to the small mesh of the extension at 5⅝-inch (14.3-cm) intervals. The deflector panel must form a complete barrier to large objects inside the extension forward of the frame. The frame must be a rectangular, ⅜-inch (1.0-cm) diameter, welded galvanized steel rod unit with a 40-inch by 4-inch (101.6-cm by 10.2-cm) opening and small pad eyes at the top corners. The trailing-edge meshes of the deflector panel must be attached to the top of the frame, and 50 lateral meshes of the extension netting (1¾-inch (4.4.-cm) mesh) must be centered and sewn to the bottom and sides of the frame. The escape opening must consist of a lateral slit, measuring 40 meshes, cut from the leading edge at the bottom of the frame. A bungee cord having a 50-

inch (127.0-cm) non-stretched length and a ¼-inch (0.64-cm) diameter must be laced through the meshes at the cut. Opposing ends of the bungee cord must be secured to the opposing pad eyes at the top of the frame. One end of a flap measuring 50 meshes across by 30 meshes deep must be attached to the meshes at the cut.

(C) *Andrews TED (Figures 8a and 8b of this part).* The Andrews TED is a funnel constructed of 5-inch (12.7-cm) stretched mesh polyethylene or polypropylene webbing that is sewn inside a shrimp trawl. The bottom panel of the trawl may be used as the bottom panel of the funnel, so long as the bottom edges of the sides of the funnel are sewn at every mesh to the bottom panel of the trawl. The leading edge of the funnel must be sewn with heavy twine at all points to the outer trawl beginning on the row of meshes located 20 meshes behind the center of the footrope and continuing around the circumference of the trawl, following the same row of meshes. The webbing may not be laced with rope. The funnel must taper to an escape opening in the bottom of the trawl. The trailing edge on the funnel must be sewn at all points around the circumference of the escape opening. The escape opening must be at least 96 inches (243.8 cm) in circumference. A webbing flap may be used to cover the escape opening if no device holds the webbing flap closed or otherwise restricts the opening, and if such flap is constructed of webbing that has a stretched mesh size no larger than 2 inches (5.1 cm), lies on the outside of the trawl, is attached along its entire forward edge forward of the escape opening, is 50 meshes wide and 15 meshes deep, does not overlap the exit opening more than 5 meshes on each side (it may be attached along the 15-mesh edge), and maintains an opening of at least 48 inches (121.9 cm) in a taut position.

(D) *Taylor TED (Figures 9a and 9b of this part).* The Taylor TED is constructed of 6-inch (15.2–cm) polyethylene or polypropylene webbing that is heat-set knotted or braided. The Taylor TED deflector panel must be not less than 228 inches (580 cm) on the leading edge and not less than 120 inches (305 cm) long. The leading edge, sides, and apex of the deflector panel must be sewn to the trawl body so as to form a complete barrier to large objects inside the trawl net forward of the codend or extension. The apex may be removed not more than 24 inches (61 cm) forward of the rear point. If the apex is removed, a rectangular section 24 inches (61 cm) long must be sewn evenly to the rear of the deflector panel to maintain the 120-inch (305–cm) length. The leading edge of the Taylor TED deflector panel must be sewn to the bottom body of the trawl net. The rear point of the deflector panel, or rear edge, if the apex is removed, must be sewn evenly, centered across the top body. An escape opening must be located on the top of the trawl body centered over the deflector panel. The opening must measure not less than 72 inches (183.6 cm), must be in a single row of meshes, and must be located no farther forward than the point where its entire length is above the deflector panel--the forward edge of the opening must extend from the attachment of the deflector panel on one side of the body, across the top of the body, to the attachment of the deflector panel on the other side. All trawl webbing above the deflector panel between the 72-inch (183.6–cm) cut and the posterior edge of the deflector panel must be removed. A rectangular flap of nylon webbing not larger than 2-inch (5.1–cm) stretched mesh may be sewn to the forward edge of the escape opening. The width of the flap may not exceed the length of the forward edge of the triangular opening. The flap may extend not more than 12 inches (30.5 cm) beyond the rear point of the escape opening. The sides of the flap may be attached to the body, but may not be attached farther aft than the rear point of the escape opening. One row of chain not larger than 3/16 inch (4.76 mm) may be sewn evenly to the back edge of the flap. The stretched length of the chain may not exceed 84 inches (214.2 cm).

(E) *Allowable modifications to soft TEDs.* The following modifications may be made to the Morrison and Taylor TEDs to increase the size of the escape opening to permit the exclusion of leatherback turtles. An enlarged escape opening must be created on the top of the trawl body centered over the

deflector panel. The opening must measure not less than 96 inches (244 cm), must be in a single row of meshes, and must be located no farther forward than the point where its entire length is above the deflector panel--the forward edge of the opening must extend from the attachment of the deflector panel on one side of the body, across the top of the body, to the attachment of the deflector panel on the other side. All trawl webbing above the deflector panel between the 96–inch (244–cm) cut and the posterior edge of the deflector panel must be removed. A rectangular flap of nylon webbing not larger than 2–inch (5.1–cm) stretched mesh may be sewn to the forward edge of the escape opening. The width of the flap may not exceed the length of the forward edge of the triangular opening. The flap may extend not more than 12 inches (30.4 cm) beyond the rear point of the escape opening. The sides of the flap may be attached to the body, but may not be attached farther aft than the rear point of the escape opening. One row of chain not larger than 3/16 inch (4.76 mm) may be sewn evenly to the back edge of the flap. The stretched length of the chain may not exceed 96 inches (244 cm). For the Morrison TED, the apex of the excluder panel may be removed no more than 48 inches (122 cm) forward of the rear edge. A rectangular section 48 inches (122 cm) long must then be sewn evenly to the rear of the excluder panel to maintain the length prescribed in the description of the Morrison TED. For the Morrison TED, the addition of a webbing flap and the modification of the excluder panel may only be done conjointly with the enlargement of the escape opening as described in this paragraph (e)(4)(iii)(E).

(iv) *Allowable modifications to TEDs.* No modifications may be made to an approved soft TED, except for the modifications described in paragraph (e)(4)(iii)(E). Unless otherwise prohibited in paragraph (e)(4)(ii) of this section, only the following modifications may be made to an approved hard TED and an approved special hard TED:

(A) *Floats.* In addition to floats required pursuant to paragraph (e)(4)(i)(I) of this section, floats may be attached to the top one-half of the TED, either outside or inside the net, but not to a flap. Floats attached inside the net must be behind the rear surface at the top of the TED.

(B) *Accelerator funnel.* An accelerator funnel may be installed in the trawl, if it is made of net webbing material with a stretched mesh size not greater than 1 5/8 inches (4.1 cm), if it has an inside horizontal opening of at least 39 inches (99.1 cm) when measured in a taut position, if it is inserted in the net immediately forward of the TED, and if its rear edge does not extend past the bars of the TED. The trailing edge of the accelerator funnel may be attached to the TED on the side opposite the escape opening if not more than 1/3 of the circumference of the funnel is attached, and if the inside horizontal opening of at least 39 inches (99.1 cm) is maintained. In a downward shooting TED, only the top 1/3 of the circumference of the funnel may be attached to the TED. In an upward shooting TED, only the bottom 1/3 of the circumference of the funnel may be attached to the TED.

(C) *Webbing flap.* A webbing flap may be used to cover the escape opening if: No device holds it closed or otherwise restricts the opening; it is constructed of webbing with a stretched mesh size no larger than 1 5/8 inches (4.1 cm); it lies on the outside of the trawl; it is attached along its entire forward edge forward of the escape opening; it is not attached on the sides beyond the row of meshes that lies 6 inches (15.2 cm) behind the posterior edge of the grid; and it does not extend more than 24 inches (61.0 cm) beyond the posterior edge of the grid, except for trawlers fishing in the Gulf SFSTCA or Atlantic SFSTCA with a hard TED with the position of the escape opening at the bottom of the net when the net is in its deployed position, in which case the webbing flap must not extend beyond the posterior edge of the grid.

(D) *Chafing webbing.* A single piece of nylon webbing, with a twine size no smaller than size 36 (2.46 mm in diameter), may be attached outside of the escape opening webbing flap to prevent chafing on bottom opening TEDs. This webbing may be attached along its leading edge only. This webbing may not extend beyond the trailing edge or sides of the existing escape opening

webbing flap, and it must not interfere or otherwise restrict the turtle escape opening.

(E) *Roller gear.* Roller gear may be attached to the bottom of a TED to prevent chafing on the bottom of the TED and the trawl net. When a webbing flap is used in conjunction with roller gear, the webbing flap must be of a length such that no part of the webbing flap can touch or come in contact with any part of the roller gear assembly or the means of attachment of the roller gear assembly to the TED, when the trawl net is in its normal, horizontal position. Roller gear must be constructed according to one of the following design criteria:

(*1*) A single roller consisting of hard plastic shall be mounted on an axle rod, so that the roller can roll freely about the axle. The maximum diameter of the roller shall be 6 inches (15.24 cm), and the maximum width of the axle rod shall be 12 inches (30.4 cm). The axle rod must be attached to the TED by two support rods. The maximum clearance between the roller and the TED shall not exceed 1 inch (2.5 cm) at the center of the roller. The support rods and axle rod must be made from solid steel or solid aluminum rod no larger than 1/2 inch (1.28 cm) in diameter. The attachment of the support rods to the TED shall be such that there are no protrusions (lips, sharp edges, burrs, etc.) on the front face of the grid. The axle rod and support rods must lie entirely behind the plane of the face of the TED grid.

(*2*) A single roller consisting of hard plastic tubing shall be tightly tied to the back face of the TED grid with rope or heavy twine passed through the center of the roller tubing. The roller shall lie flush against the TED. The maximum outside diameter of the roller shall be 3 1/2 inches (8.0 cm), the minimum outside diameter of the roller shall be 2 inches (5.1 cm), and the maximum length of the roller shall be 12 inches (30.4 cm). The roller must lie entirely behind the plane of the face of the grid.

(5)(i) *Revision of generic design criteria, and approval of TEDs, of allowable modifications of hard TEDs, and of special hard TEDs.* The Assistant Administrator may revise the generic design criteria for hard TEDs set forth in paragraph (e)(4)(i) of this section, may approve special hard TEDs in addition to those listed in paragraph (e)(4)(ii) of this section, may approve allowable modifications to hard TEDs in addition to those authorized in paragraph (e)(4)(iv) of this section, or may approve other TEDs, by regulatory amendment, if, according to a NMFS-approved scientific protocol, the TED demonstrates a sea turtle exclusion rate of 97 percent or greater (or an equivalent exclusion rate). Two such protocols have been published by NMFS (52 FR 24262, June 29, 1987; and 55 FR 41092, October 9, 1990) and will be used only for testing relating to hard TED designs. Testing under any protocol must be conducted under the supervision of the Assistant Administrator, and shall be subject to all such conditions and restrictions as the Assistant Administrator deems appropriate. Any person wishing to participate in such testing should contact the Director, Southeast Fisheries Science Center, NMFS.

(ii) Upon application, the Assistant Administrator may issue permits, subject to such conditions and restrictions as the Assistant Administrator deems appropriate, authorizing public or private experimentation aimed at improving shrimp retention efficiency of existing approved TEDs and at developing additional TEDs, or conducting fishery research, that would otherwise be subject to paragraph (e)(2) of this section. Applications should be addressed to the Director, Southeast Region, NMFS, 9450 Koger Blvd., St. Petersburg, FL 33702.

(6) *Limitations on incidental takings during fishing activities*—(i) *Limitations.* The exemption for incidental takings of sea turtles in paragraph (e)(1) of this section does not authorize incidental takings during fishing activities if the takings:

(A) Would violate the restrictions, terms, or conditions of an incidental take statement or biological opinion;

(B) Would violate the restrictions, terms, or conditions of an incidental take permit; or

(C) May be likely to jeopardize the continued existence of a species listed under the Act.

(ii) *Determination; restrictions on fishing activities.* The Assistant Administrator may issue a determination that incidental takings during fishing activities are unauthorized. Pursuant thereto, the Assistant Administrator may restrict fishing activities in order to conserve a species listed under the Act, including, but not limited to, restrictions on the fishing activities of vessels subject to paragraph (e)(2)(i) of this section. The Assistant Administrator will take such action if he/she determines that restrictions are necessary to avoid unauthorized takings that may be likely to jeopardize the continued existence of a listed species. The Assistant Administrator may withdraw or modify a determination concerning unauthorized takings or any restriction on fishing activities if the Assistant Administrator determines that such action is warranted.

(iii) *Notice; applicability; conditions.* The Assistant Administrator will publish a notification of a determination concerning unauthorized takings or a notification concerning the restriction of fishing activities in the FEDERAL REGISTER. The Assistant Administrator will provide as much advance notice as possible, consistent with the requirements of the Act, and will announce the notification in summary form on channel 16 of the marine VHF radio. Notification of a determination concerning unauthorized takings will include findings in support of that determination; specify the fishery, including the target species and gear used by the fishery, the area, and the times, for which incidental takings are not authorized; and include such other conditions and restrictions as the Assistant Administrator determines are necessary or appropriate to protect sea turtles and ensure compliance. Notification of restriction of fishing activities will include findings in support of the restriction, will specify the time and area where the restriction is applicable, and will specify any applicable conditions or restrictions that the Assistant Administrator determines are necessary or appropriate to protect sea turtles and ensure compliance. Such conditions and restrictions may include, but are not limited to, limitations on the types of fishing gear that may be used, tow-time restrictions, alteration or extension of the periods of time during which particular tow-time requirements apply, requirements to use TEDs, and requirements to provide observers. Notification of withdrawal or modification will include findings in support of that action.

(iv) *Registration.* If the Assistant Administrator imposes restrictions under paragraph (e)(6)(ii) of this section, he/she may require the owner and operator of a vessel to register before entering an area where, and during the time when, the restrictions apply. If registration is required, the vessel's owner and operator must submit the following information to the NMFS Regional Office:

(A) The name and official number (or registration number) of the vessel;

(B) The names, mailing and street addresses, and telephone numbers of the vessel owner and operator;

(C) The permit number or other identification of relevant state or Federal fishing permit(s);

(D) Where and when the vessel intends to fish; and

(E) Where and when the vessel will depart on any fishing trip, with sufficient specificity to allow for an observer to embark on the trip.

(F) Any changes in the information submitted under paragraphs (e)(6)(iv)(A) through (E) of this section. Failure to do so immediately will void the registration, which will render unlawful any subsequent entry of the fishing vessel into the area where and during the time when the restrictions apply.

(v) *Procedures.* The Assistant Administrator will consult with the appropriate fisheries officials (state or Federal) where the fishing activities are located in issuing notification of a determination concerning unauthorized takings or notification concerning the restriction of fishing activities. An emergency notification will be effective for a period of up to 30 days and may be renewed for additional periods of up to 30 days each. The Assistant Administrator may invite comments on such action, and may withdraw or modify the action by following procedures similar to those for implementation. The Assistant Administrator will

implement any permanent determination or restriction through rulemaking.

(7) *Incidental-take permits.* The Assistant Administrator may issue permits authorizing activities that would otherwise be prohibited in § 227.71(a) of this chapter in accordance with section 10(a)(1)(B) of the Act (16 U.S.C. 1539(a)(1)(B)), and in accordance with, and subject to, the provisions of parts 220 and 222 of this chapter. Such permits may be issued for the incidental taking of both endangered and threatened species of sea turtles. This section supersedes restrictions on the scope of parts 220 and 222, including, but not limited to, the restrictions specified in §§ 220.3, 222.1, 222.2(a) and 222.22(a).

(f) *Subsistence.* The prohibition in § 227.71(b) shall not apply with respect to the taking of any member of the species of green sea turtle (*Chelonia mydas*) in waters seaward of mean low tide for personal consumption by residents of the Trust Territory of the Pacific Islands if such taking is customary, traditional and necessary for the sustenance of such resident and his immediate family. Sea turtles so taken cannot be transferred to non-residents or sold.

[43 FR 32809, July 28, 1978]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 227.72, see the List of CFR Sections Affected in the Finding Aids section of this volume.

EFFECTIVE DATE NOTE: At 60 FR 15516, Mar. 24, 1995 in § 227.72, paragraph (e)(4)(i)(I) was revised. Paragraph (e)(4)(i)(I)(*2*)(*ii*) contains information collection requirements and will not become effective until approval has been given by the Office of Management and Budget.

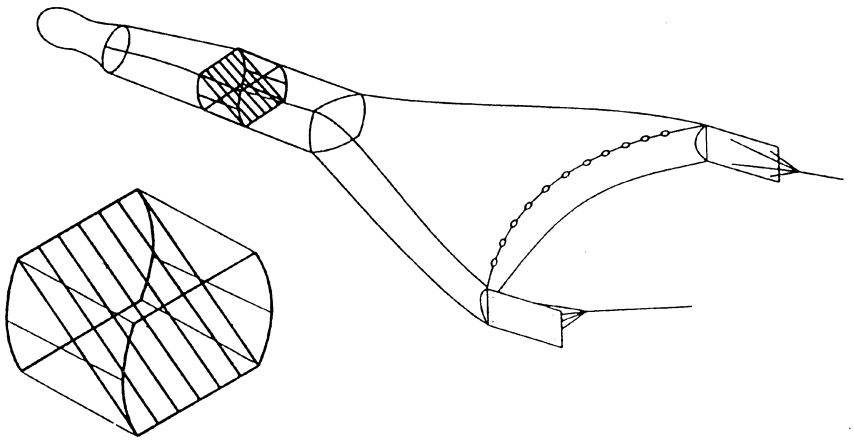


FIGURE 1 to part 227--NMFS TED

[60 FR 15519, Mar. 24, 1995]

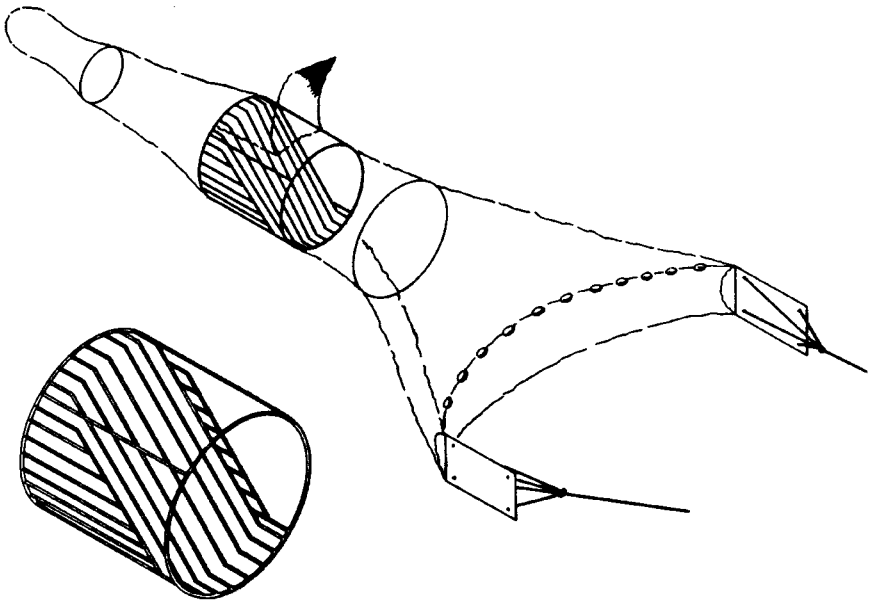


FIGURE 2 (CAMERON TED)

[52 FR 24259, June 29, 1987. Redesignated at 57 FR 40868, Sept. 8, 1992]

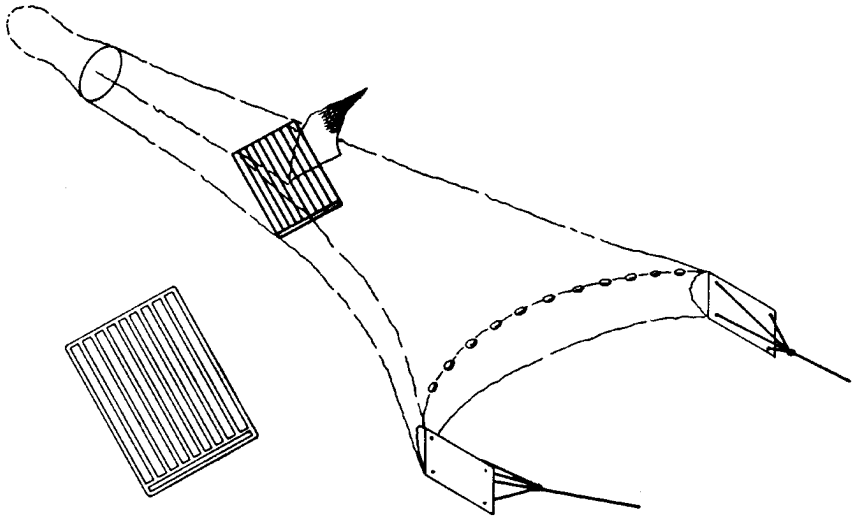


FIGURE 3 MATAGORDA TED

[52 FR 24260, June 29, 1987. Redesignated at 57 FR 40868, Sept. 8, 1992]

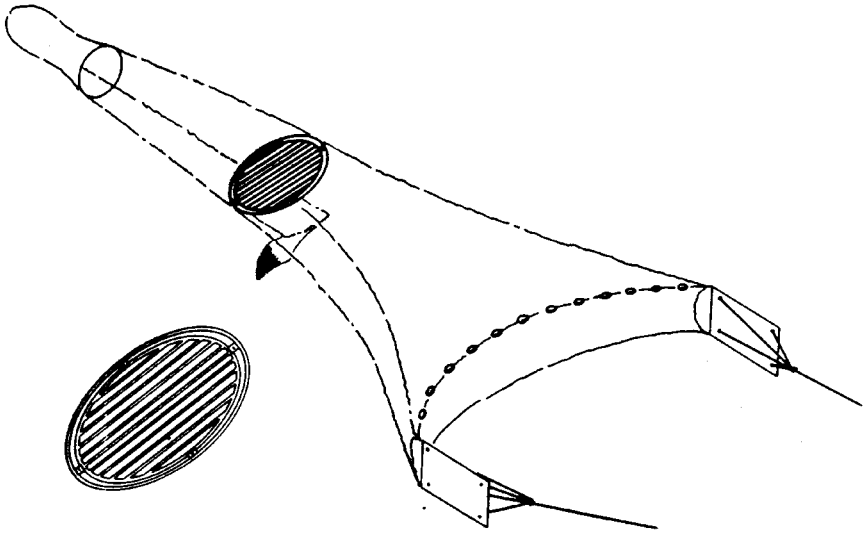


FIGURE 4 (GEORGIA TED)

[52 FR 24261, June 29, 1987. Redesignated at 57 FR 40868, Sept. 8, 1992]

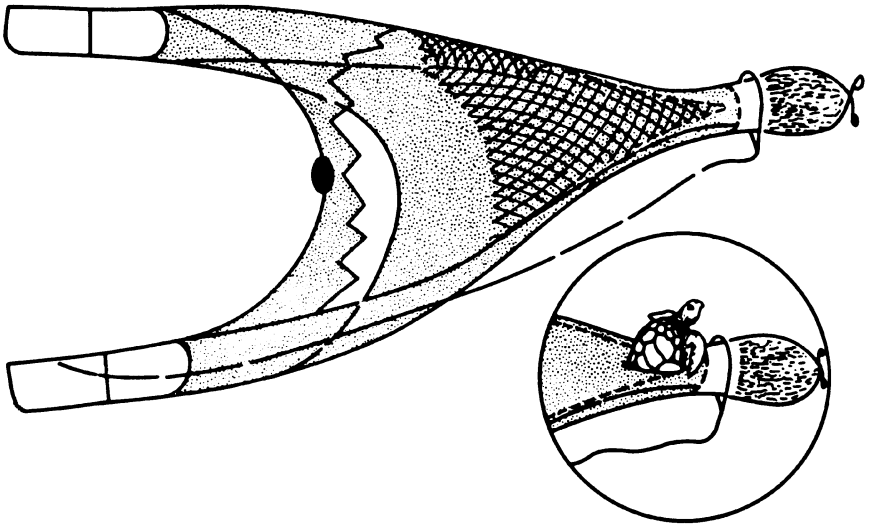


Figure 5 (MORRISON TED)

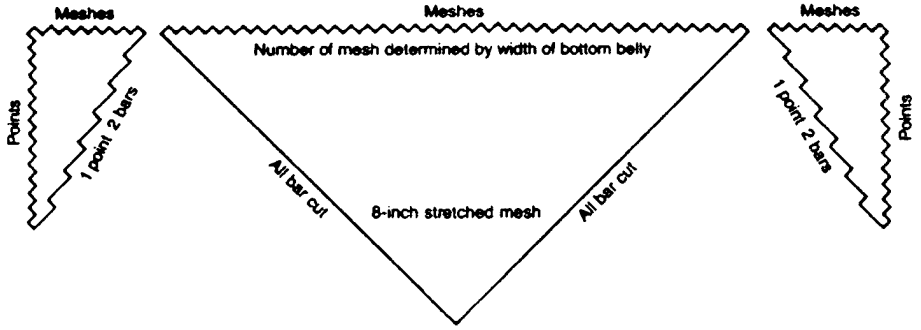


Figure 6 SCHEMATIC EXAMPLE OF MORRISON TED'S MAIN PANEL & JIBS

[52 FR 37154, Oct. 5, 1987. Redesignated at 57 FR 40868, Sept. 8, 1992]

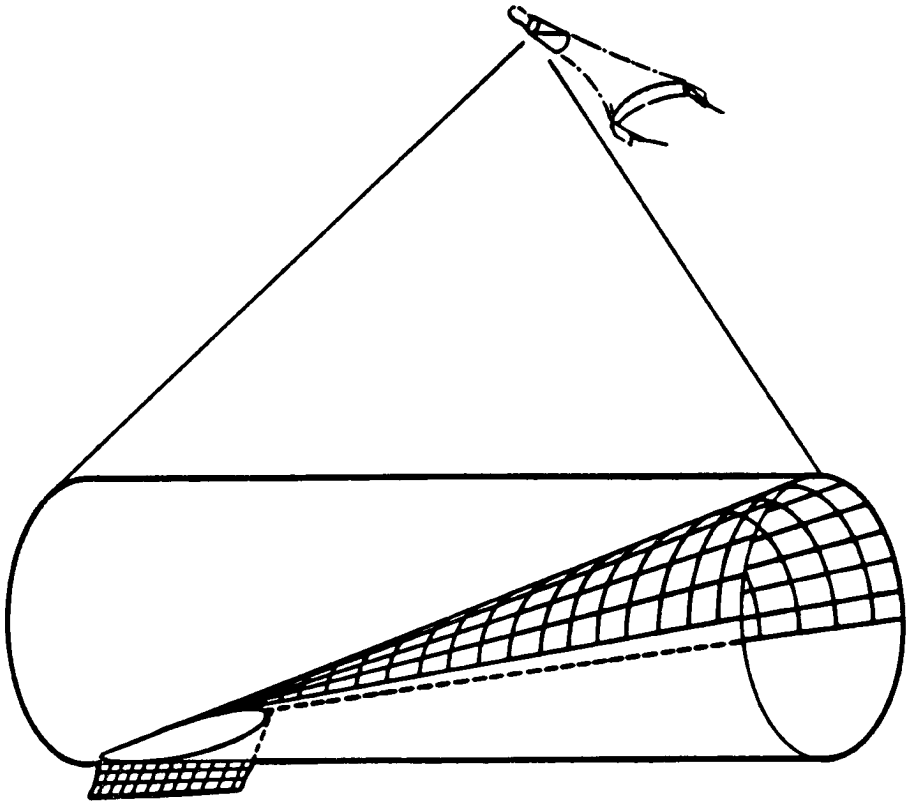


Figure 7. (PARRISH T.E.D.)

[53 FR 33822, Sept. 1, 1988. Redesignated at 57 FR 40868, Sept. 8, 1992]

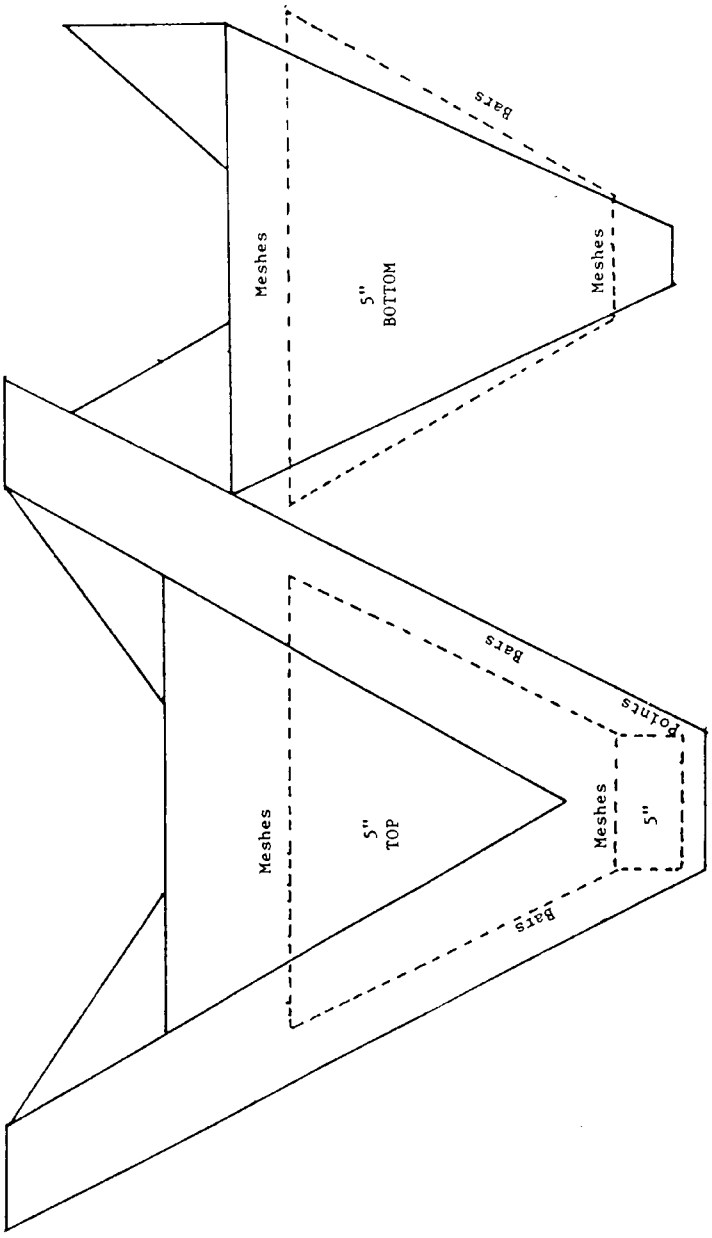


Figure 8a

ANDREWS TED

[55 FR 41090, Oct. 9, 1990. Redesignated at 57 FR 40868, Sept. 8, 1992]

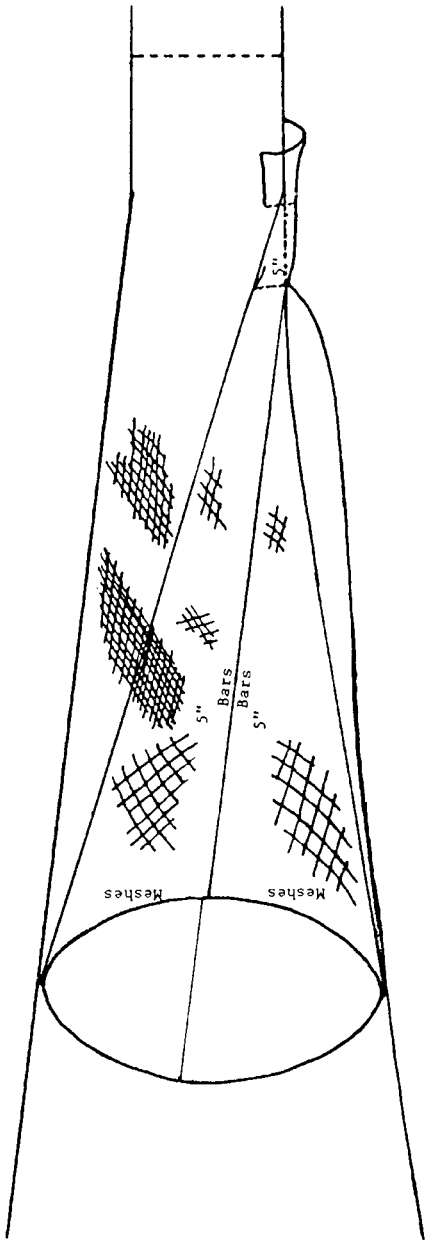


Figure 8b
ANDREWS TED

[55 FR 41091, Oct. 9, 1990. Redesignated at 57 FR 40868, Sept. 8, 1992]

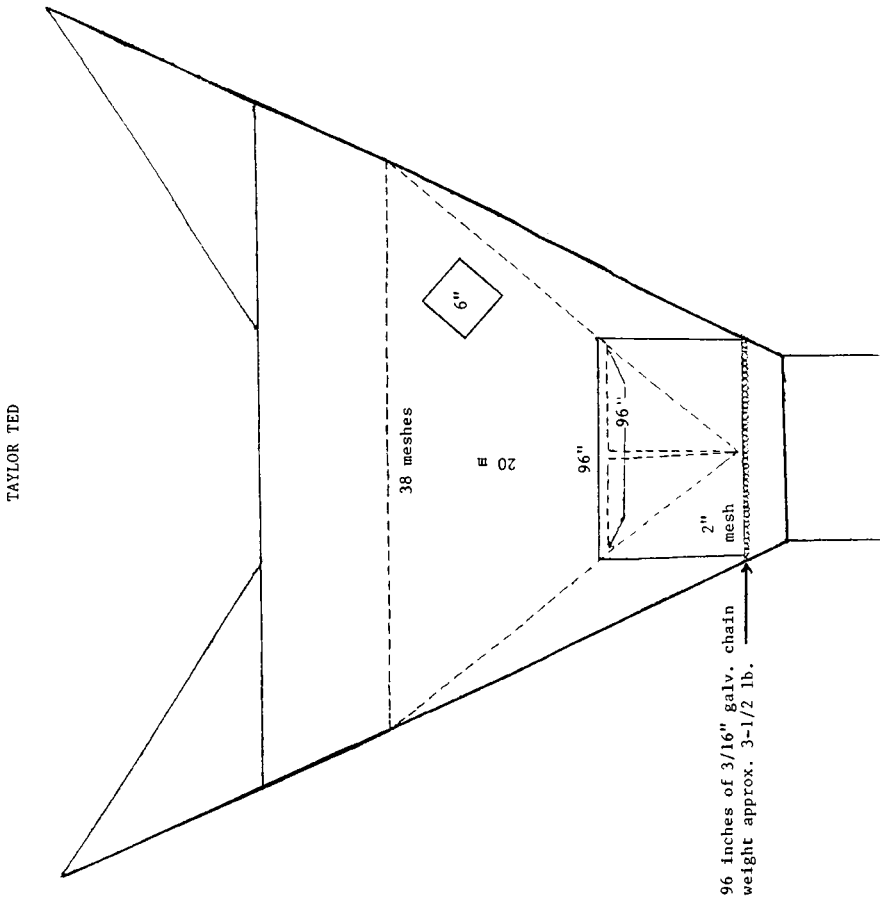


FIGURE 9a

[58 FR 28797, May 17, 1993]

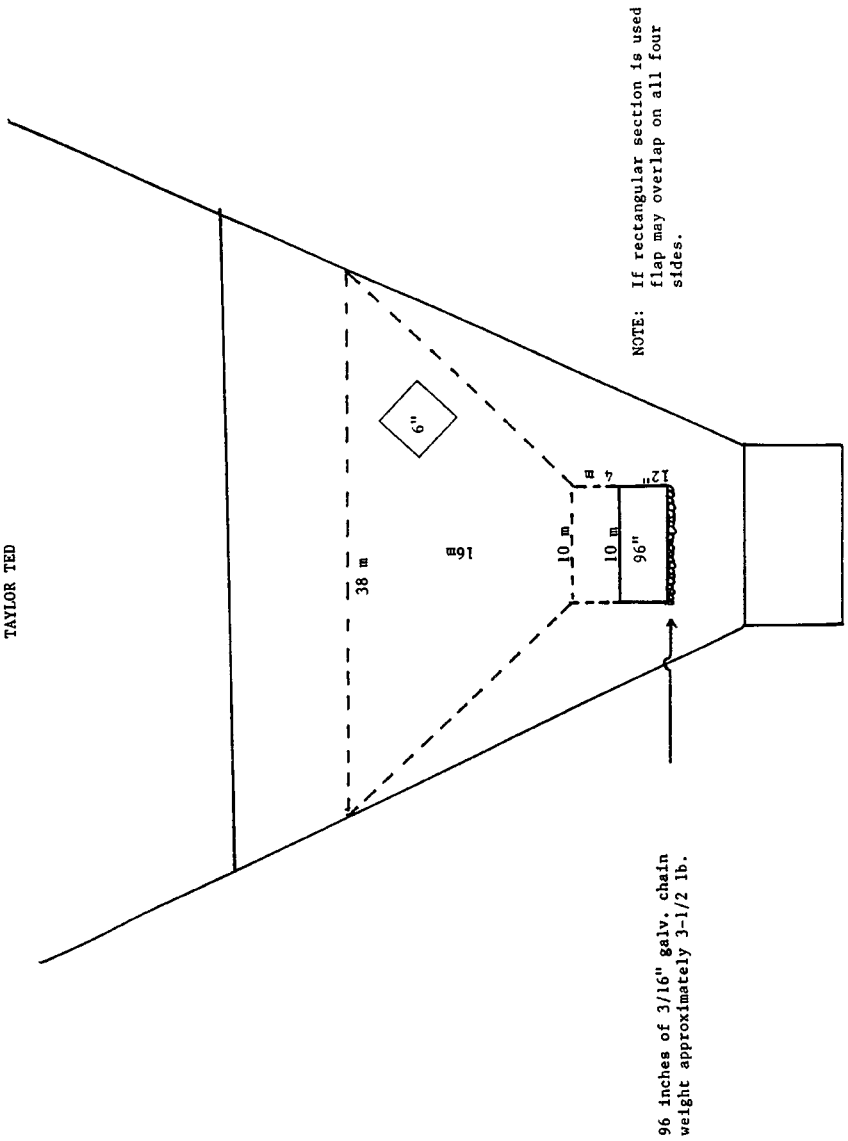
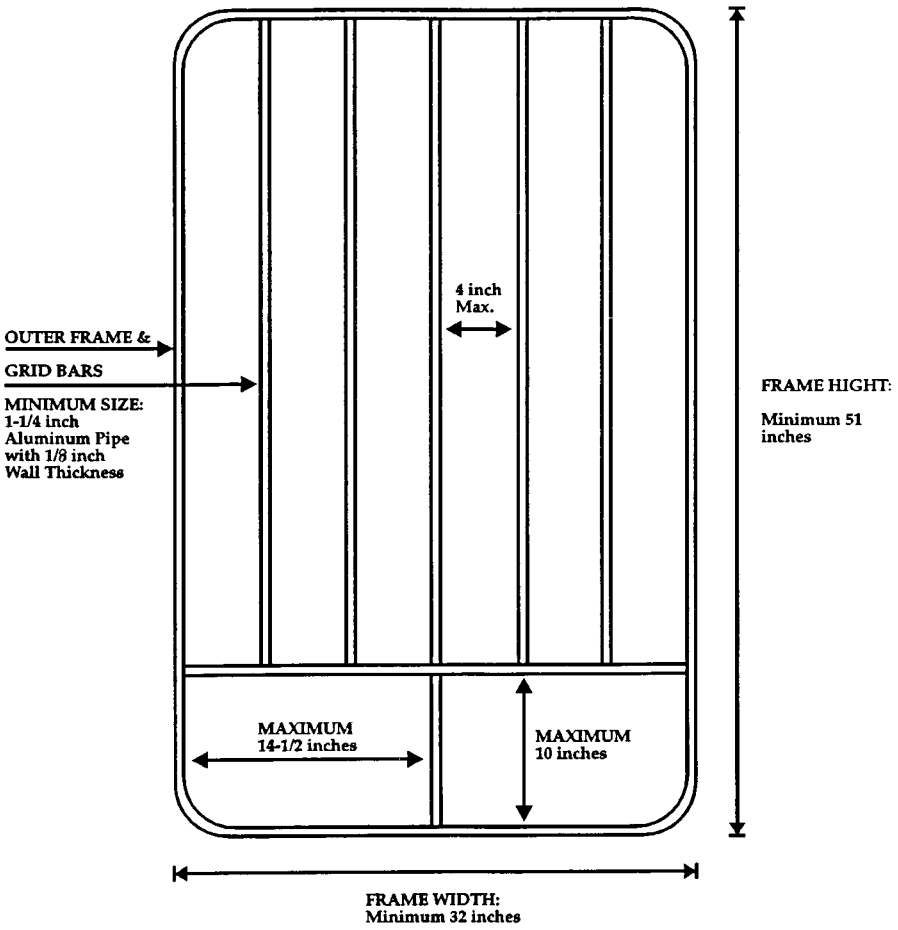


FIGURE 9b

[58 FR 28798, May 17, 1993]

FLOUNDER TED

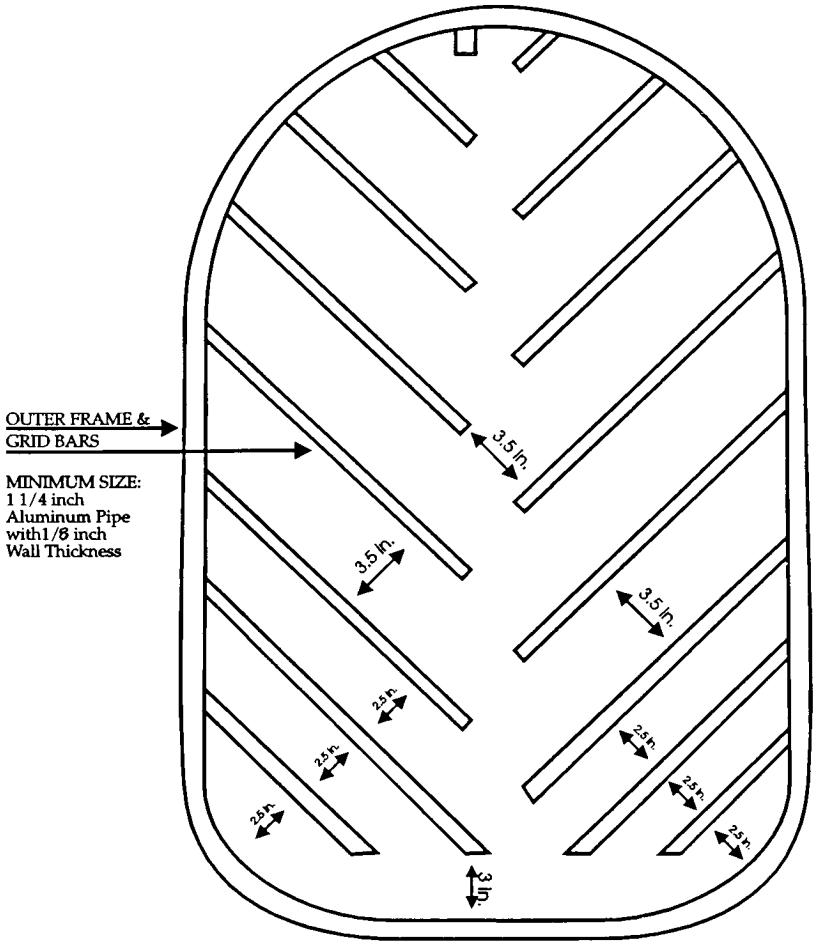
FIGURE 10



[58 FR 54069, Oct. 20, 1993]

JONES TED

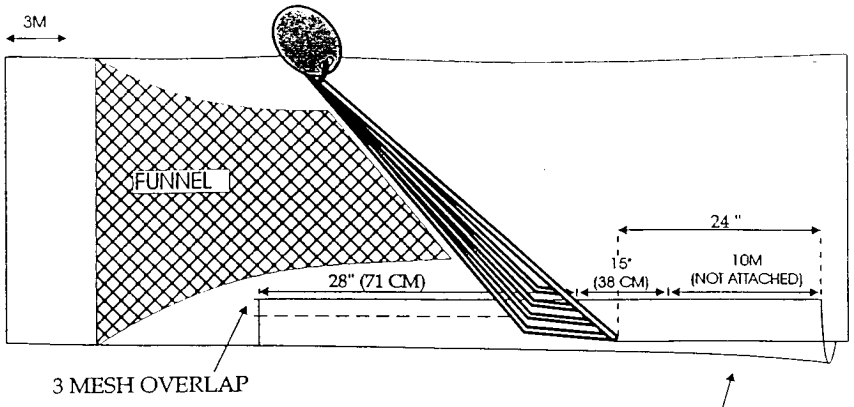
FIGURE 11

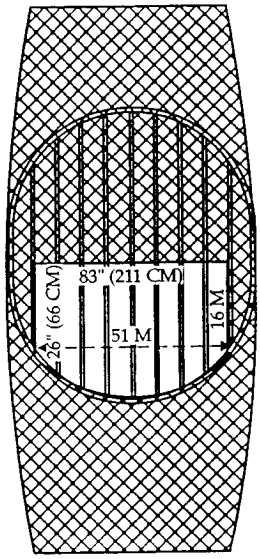


[58 FR 54070, Oct. 20, 1993]

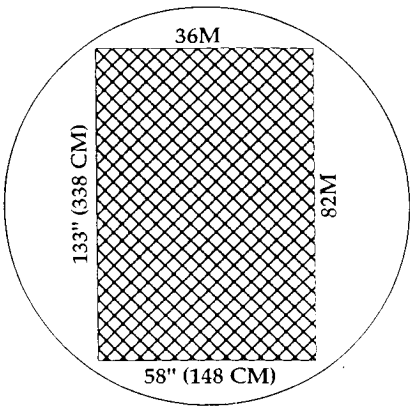
FIGURE 12a to part 227

ATTACHMENT OF THE EXIT HOLE COVER





CUTTING THE EXIT HOLE

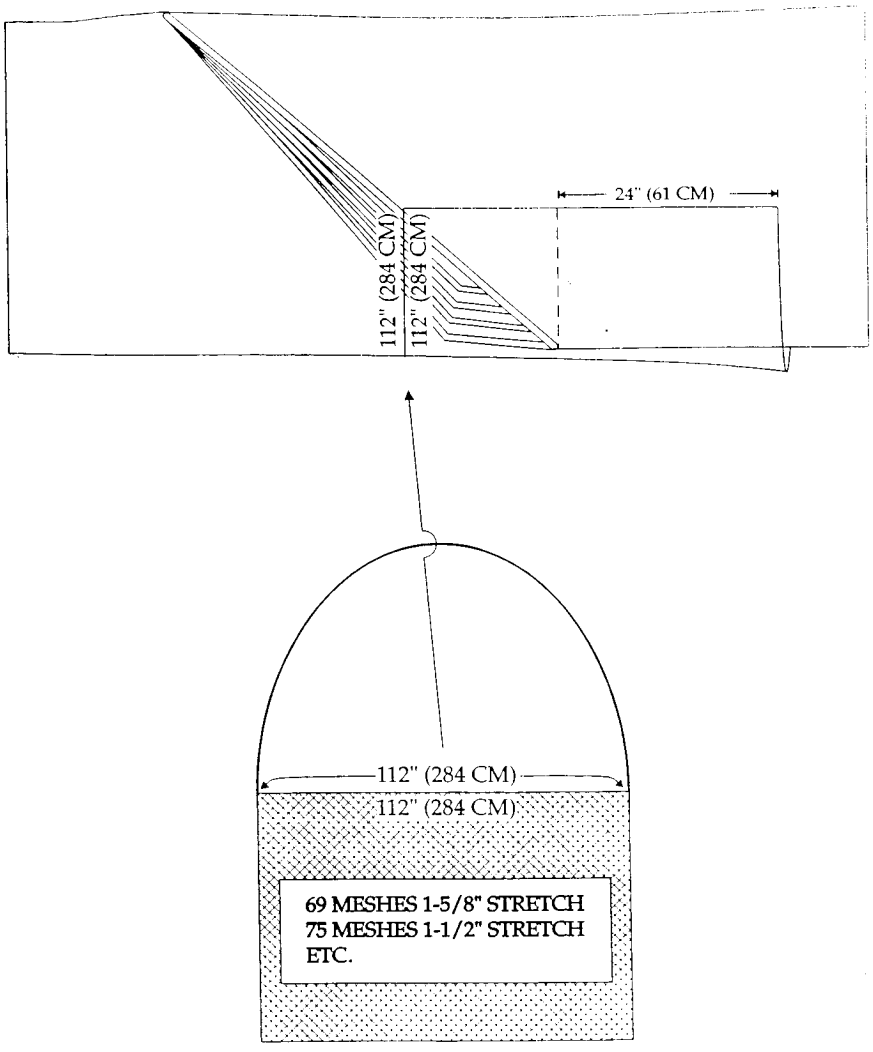


EXIT HOLE COVER (FLAP)

[59 FR 25830, May 18, 1994]

FIGURE 12b to part 227

GRID TED LEATHERBACK MODIFICATION



[59 FR 25831, May 18, 1994]

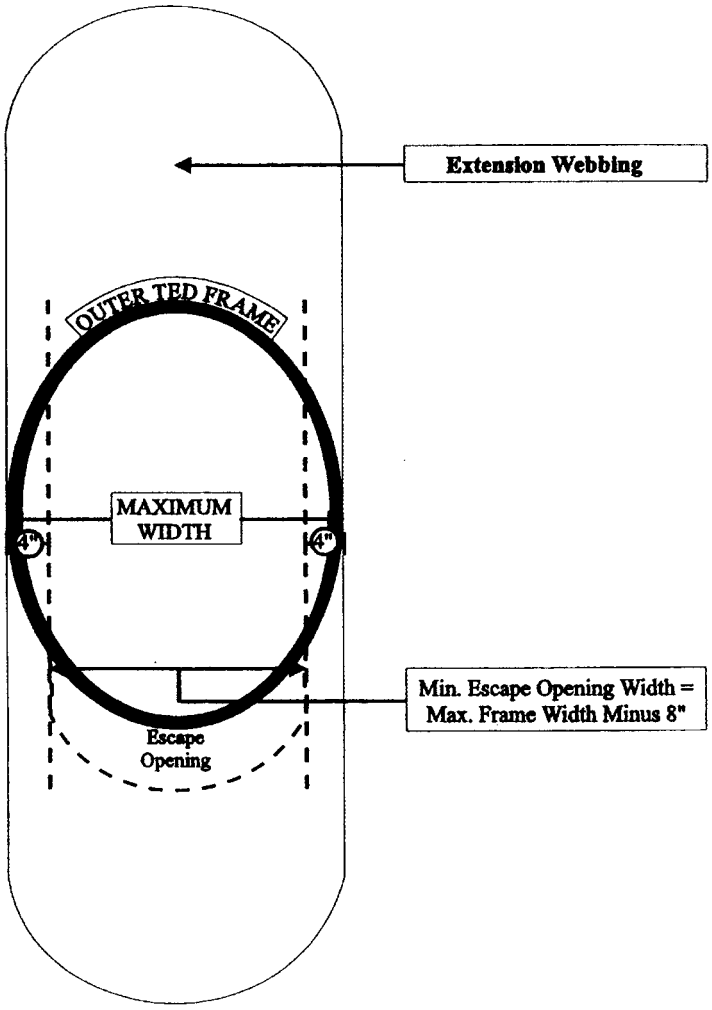


FIGURE 13 to part 227--SINGLE GRID HARD TED ESCAPE OPENING

[60 FR 15520, Mar. 24, 1995]

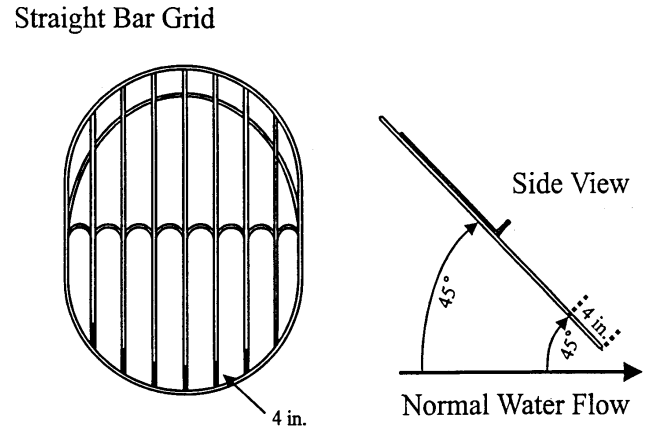


Figure 14a to part 227
Maximum Angle of Deflector Bars with Straight Bars
Attached to the Bottom of the Frame

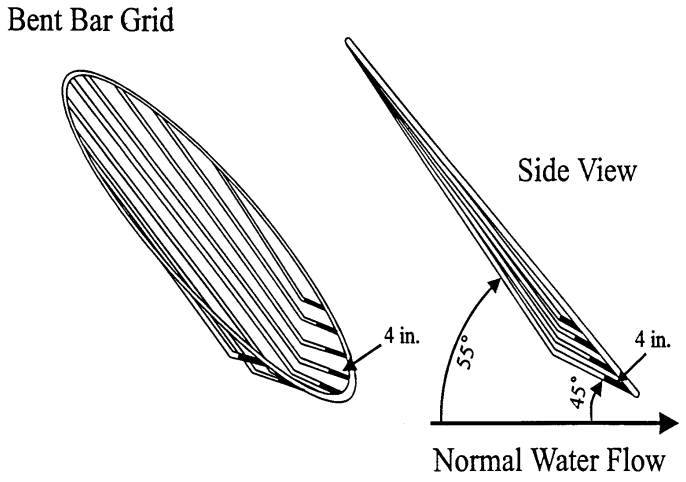


Figure 14b to part 227
Maximum Angle of Deflector Bars with Bent Bars
Attached to the Bottom of the Frame

[61 FR 66946, Dec. 19, 1996]

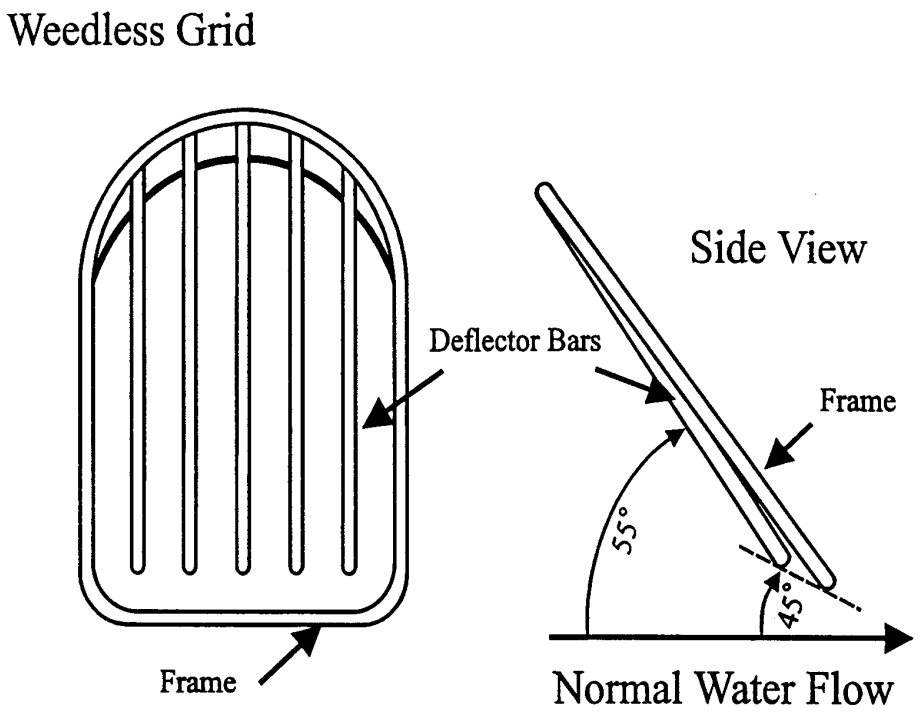


Figure 15 to part 227
Maximum Angle of Deflector Bars with Bars Unattached to the Bottom of the Frame

[61 FR 66947, Dec. 19, 1996]